



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

02 JUL 2002

FILE:

Office: Miami

Date:

IN RE: Applicant:

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the [REDACTED] 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director found the applicant inadmissible to the United States because she falls within the purview of section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(A)(i)(I). The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

Section 212(a)(2) of the Act, 8 U.S.C. 1182(a)(2), provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

(A)(i) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of --

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or....

The record reflects the following:

1. On August 31, 2000, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. 00-23767, the applicant entered a plea of guilty to Count 1, fraudulent use of a credit card; Count 2, fraudulent use of a credit card; Count 3, forgery-credit card; Counts 4 & 5, uttering a forged instrument-credit card; Count 6, grand theft; Count 7, forged credit card possession; and Count 8, unauthorized use or possession of driver's license or I.D. card. The court adjudged the applicant guilty of all 8 counts; imposition of sentence was withheld and she was placed on probation for a period of 2 years, ordered to pay \$551 in

court costs, and make restitution to the victim in an unspecified amount.

2. On August 31, 2000, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. 00-24804, the applicant entered a plea of guilty to possession of forged credit card. She was adjudged guilty of the crime; imposition of sentence was withheld and she was placed on probation for a period of 2 years, ordered to pay \$508 in court costs, and make restitution to the victim in the amount of \$3,033.

Moral turpitude attaches to any crime against property which involves "fraud" whether it entails fraud against the Government or an individual. The major crimes against property which involve an evil or predatory intent likewise involve moral turpitude. Thus, any crime involving fraud is a crime involving moral turpitude. Burr v. INS, 350 F.2d 87, 91 (9th Cir. 1965).

Fraudulent use of a credit card is a crime involving moral turpitude. See Matter of Chouinard, 11 I&N Dec. 839 (BIA 1966). Forgery is a crime involving moral turpitude. Matter of Seda, 17 I&N Dec. 550 (BIA 1980); Matter of Jimenez, 14 I&N Dec. 442 (BIA 1973). Uttering a forged instrument is a crime involving moral turpitude. Matter of S-C-, 3 I&N 350 (BIA 1949); Matter of Yanez-Yanez, 13 I&N Dec 449 (BIA 1970). Likewise, grand theft is a crime involving moral turpitude. Matter of Chen, 10 I&N Dec. 671 (BIA 1964); Matter of Scarpulla, 15 I&N Dec. 139 (BIA 1974).

The applicant is, therefore, inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act based on her convictions of crimes involving moral turpitude. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings. No additional evidence has been entered into the record of proceeding. Further, the application for waiver of grounds of inadmissibility, filed by the applicant on June 21, 2001, was denied by the district director on January 7, 2002. No appeal on the denial of the waiver application was filed by the applicant.

The applicant is ineligible for adjustment of status to permanent residence pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.